

FILED

JUN 21 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 23-90038

ORDER

MURGUIA, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a magistrate judge. Review of this complaint is governed by the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“Judicial-Conduct Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 et seq., and relevant prior decisions of the Ninth Circuit Judicial Council. In accordance with these authorities, the names of complainant and the subject judge shall not be disclosed in this order. See Judicial-Conduct Rule 11(g)(2).

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is frivolous or lacks sufficient evidence to raise an inference of misconduct. See 28

U.S.C. § 352(b)(1)(A)(i)-(iii). Judicial misconduct proceedings are not a substitute for the normal appellate review process and may not be used to seek reversal of a judge's decision, to obtain a new trial, or to request reassignment to a different judge.

Complainant alleges that the magistrate judge is “flagrantly biased” toward him. As support, complainant states the magistrate judge has lied and called him by the wrong honorific. However, complainant provides no objectively verifiable evidence to support this conclusory allegation of bias, which is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii) (listing reasons the chief judge may decide to dismiss the complaint, including claims that are lacking sufficient evidence to raise an inference that misconduct has occurred); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“complainant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

Next, complainant alleges that the magistrate judge is in a conspiracy with various other judges at the state and federal level. Again, he fails to provide any support beyond vague and conclusory speculation. Accordingly, this allegation is also dismissed as unfounded. See id.; In re Complaint of Judicial Misconduct, 900 F.3d 1163 (9th Cir. 2018) (dismissing as unfounded allegations that subject judges engaged in conspiracy because complainant failed to provide objectively verifiable

evidence in support of the allegations).

Next, complainant alleges that the magistrate judge may suffer from a disability based on complainant's perception of the magistrate judge's voice. Complainant has not provided any transcript or audio in support of his allegation, and none could be found in the record. Without more specific proof, complainant's allegation is insufficient to "raise an inference that ... a disability exists." Judicial-Conduct Rule 11(c)(1)(D); see also 28 U.S.C. § 352(b)(1)(A)(iii). In re Complaint of Judicial Misconduct, 758 F.3d 1161 (9th Cir. Jud. Council 2014).

Finally, complainant alleges that the magistrate judge wrongly denied his motion for recusal and his motion for summary judgment. These allegations relate directly to the merits of the judge's decisions and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are directly related to the merits of a decision); In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing allegations that a district judge and a magistrate judge made various improper rulings in a civil case as relating to the merits); Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.